

Introduced by Senator Torlakson

February 22, 2005

An act to amend Sections 65863.11 and 65863.13 of the Government Code, and to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 950, as introduced, Torlakson. Housing: tax credits: tenants.

Existing insurance tax law, the Personal Income Tax Law, and the Corporation Tax Law allow, in modified conformity to federal income tax laws, taxpayers a credit against the taxes imposed by those laws for providing low-income housing, and require the California Tax Credit Allocation Committee to allocate the credit in accordance with specified criteria.

This bill would expand the categories of housing projects with respect to which a credit is allowed, by broadening the category of at-risk of conversion housing, extending the eligible time period in which expirations of specified subsidies may occur, and by allowing buildings held by certain tax-exempt entities to be eligible.

Existing law, until January 1, 2011, requires, prior to the anticipated date of the termination of a subsidy contract, expiration of rental restrictions, or prepayment on an assisted housing development, as defined, that the owner provide a notice of the proposed change to each affected tenant household residing in the assisted housing development and to the affected public entities. An owner is not required to provide the notice if specified conditions contained in a regulatory agreement has been recorded against the property.

This bill would modify those conditions with respect to rent increases on assisted and unassisted units, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65863.11 of the Government Code, as
2 amended by Chapter 110 of the Statutes of 2004, is amended to
3 read:

4 65863.11. (a) Terms used in this section shall be defined as
5 follows:

6 (1) “Assisted housing development” and “development” mean
7 a multifamily rental housing development as defined in
8 paragraph (3) of subdivision (a) of Section 65863.10.

9 (2) “Owner” means an individual, corporation, association,
10 partnership, joint venture, or business entity that holds title to an
11 assisted housing development.

12 (3) “Tenant” means a tenant, subtenant, lessee, sublessee, or
13 other person legally in possession or occupying the assisted
14 housing development.

15 (4) “Tenant association” means a group of tenants who have
16 formed a nonprofit corporation, cooperative corporation, or other
17 entity or organization, or a local nonprofit, regional, or national
18 organization whose purpose includes the acquisition of an
19 assisted housing development and that represents the interest of
20 at least a majority of the tenants in the assisted housing
21 development.

22 (5) “Low or moderate income” means having an income as
23 defined in Section 50093 of the Health and Safety Code.

24 (6) “Very low income” means having an income as defined in
25 Section ~~50052.5~~ 50105 of the Health and Safety Code.

26 (7) “Local nonprofit organizations” means not-for-profit
27 corporations organized pursuant to Division 2 (commencing with
28 Section 5000) of Title 1 of the Corporations Code, that have as
29 their principal purpose the ownership, development, or
30 management of housing or community development projects for
31 persons and families of low or moderate income and very low
32 income, and which have a broadly representative board, a
33 majority of whose members are community based and have a
34 proven track record of local community service.

1 (8) “Local public agencies” means housing authorities,
2 redevelopment agencies, or any other agency of a city, county, or
3 city and county, whether general law or chartered, which are
4 authorized to own, develop, or manage housing or community
5 development projects for persons and families of low or
6 moderate income and very low income.

7 (9) “Regional or national organizations” means not-for-profit,
8 charitable corporations organized on a multicounty, state, or
9 multistate basis that have as their principal purpose the
10 ownership, development, or management of housing or
11 community development projects for persons and families of low
12 or moderate income and very low income.

13 (10) “Regional or national public agencies” means
14 multicounty, state, or multistate agencies that are authorized to
15 own, develop, or manage housing or community development
16 projects for persons and families of low or moderate income and
17 very low income.

18 (11) “Use restriction” means any federal, state, or local statute,
19 regulation, ordinance, or contract that, as a condition of receipt of
20 any housing assistance, including a rental subsidy, mortgage
21 subsidy, or mortgage insurance, to an assisted housing
22 development, establishes maximum limitations on tenant income
23 as a condition of eligibility for occupancy of the units within a
24 development, imposes any restrictions on the maximum rents that
25 could be charged for any of the units within a development; or
26 requires that rents for any of the units within a development be
27 reviewed by any governmental body or agency before the rents
28 are implemented.

29 (12) “Profit-motivated organizations and individuals” means
30 individuals or two or more persons organized pursuant to
31 Division 1 (commencing with Section 100) of Title 1 of, Division
32 3 (commencing with Section 1200) of Title 1 of, or Division 1
33 (commencing with Section 15001) of Title 2 of, the Corporations
34 Code, that carry on as a business for profit.

35 (13) “Department” means the Department of Housing and
36 Community Development.

37 (14) “Offer to purchase” means an offer from a qualified or
38 nonqualified entity that is nonbinding on the owner.

39 (15) “Expiration of rental restrictions” has the meaning given
40 in paragraph (5) of subdivision (a) of Section 65863.10.

(b) An owner of an assisted housing development shall not terminate a subsidy contract or prepay the mortgage pursuant to Section 65863.10, unless the owner or its agent shall first have provided each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivisions (g) and (h). An owner of an assisted housing development in which there will be the expiration of rental restrictions must also provide each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivisions (g) and (h). An owner who meets the requirements of Section 65863.13 shall be exempt from this requirement.

(c) An owner of an assisted housing development shall not sell, or otherwise dispose of, the development at any time within the five years prior to the expiration of rental restrictions or at any time if the owner is eligible for prepayment or termination within five years unless the owner or its agent shall first have provided each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivisions (g) and (h). An owner who meets the requirements of Section 65863.13 shall be exempt from this requirement.

(d) The entities to whom an opportunity to purchase shall be provided include only the following:

- (1) The tenant association of the development.
- (2) Local nonprofit organizations and public agencies.
- (3) Regional or national nonprofit organizations and regional or national public agencies.
- (4) Profit-motivated organizations or individuals.

(e) For the purposes of this section, to qualify as a purchaser of an assisted housing development, an entity listed in subdivision (d) shall do all of the following:

- (1) Be capable of managing the housing and related facilities for its remaining useful life, either by itself or through a management agent.
- (2) Agree to obligate itself and any successors in interest to maintain the affordability of the assisted housing development for households of very low, low, or moderate income for either a 30-year period from the date that the purchaser took legal possession of the housing or the remaining term of the existing

federal government assistance specified in subdivision (a) of Section 65863.10, whichever is greater. The development shall be continuously occupied in the approximate percentages that those households who have occupied that development on the date the owner gave notice of intent or the approximate percentages specified in existing use restrictions, whichever is higher. This obligation shall be recorded prior to the close of escrow in the office of the county recorder of the county in which the development is located and shall contain a legal description of the property, indexed to the name of the owner as grantor. An owner that obligates itself to an enforceable regulatory agreement that will ensure for a period of not less than 30 years that rents for units occupied by low- and very low income households or that are vacant at the time of executing a purchase agreement will conform with restrictions imposed by Section 42(f) of the Internal Revenue Code shall be deemed in compliance with this paragraph. In addition, the regulatory agreement shall contain provisions requiring the renewal of rental subsidies, should they be available, provided that assistance is at a level to maintain the project's fiscal viability.

(3) Local nonprofit organizations and public agencies shall have no member among their officers or directorate with a financial interest in assisted housing developments that have terminated a subsidy contract or prepaid a mortgage on the development without continuing the low-income restrictions.

(f) If an assisted housing development is not economically feasible, as defined in paragraph (3) of subdivision (h) of Section 17058 of the Revenue and Taxation Code, a purchaser shall be entitled to remove one or more units from the rent and occupancy requirements as is necessary for the development to become economically feasible, provided that once the development is again economically feasible, the purchaser shall designate the next available units as low-income units up to the original number of those units.

(g) (1) If an owner decides to terminate a subsidy contract, or prepay the mortgage pursuant to Section 65863.10, or sell or otherwise dispose of the assisted housing development pursuant to subdivision (b) or (c), or if the owner has an assisted housing development in which there will be the expiration of rental restrictions, the owner shall first give notice of the opportunity to

1 offer to purchase to each qualified entity on the list provided to
2 the owner by the department, in accordance with subdivision (o),
3 as well as to those qualified entities that directly contact the
4 owner. The notice of the opportunity to offer to purchase must be
5 given prior to or concurrently with the notice required pursuant
6 to Section 65863.10 for a period of at least 12 months. The
7 owner shall contact the department to obtain the list of qualified
8 entities. The notice shall conform to the requirements of
9 subdivision (h) and shall be sent to the entities by registered or
10 certified mail, return receipt requested. The owner shall also post
11 a copy of the notice in a conspicuous place in the common area
12 of the development.

13 (2) If the owner already has a bona fide offer to purchase from
14 an entity prior to January 1, 2001, at the time the owner decides
15 to sell or otherwise dispose of the development, the owner shall
16 not be required to comply with this subdivision. However, the
17 owner shall notify the department of this exemption and provide
18 the department a copy of the offer.

19 (h) The initial notice of a bona fide opportunity to submit an
20 offer to purchase shall contain all of the following:

21 (1) A statement that the owner will make available to each of
22 the type of entities listed in subdivision (d), within 15 business
23 days of receiving a request therefor, the terms of assumable
24 financing, if any; the terms of the subsidy contract, if any; and
25 proposed improvements to the property to be made by the owner
26 in connection with the sale, if any.

27 (2) A statement that each of the type of entities listed in
28 subdivision (d) has the right to purchase the development under
29 this section.

30 (3) A statement that the owner will make available to each of
31 the type of entities listed in subdivision (d), within 15 business
32 days of receiving a request therefor, itemized lists of monthly
33 operating expenses, capital improvements as determined by the
34 owner made within each of the two preceding calendar years, the
35 amount of project reserves, and copies of the two most recent
36 financial and physical inspection reports on the development, if
37 any, filed with the federal, state, or local agencies.

38 (4) A statement that the owner will make available to each of
39 the entities listed in subdivision (d), within 15 business days of a
40 request therefor, the most recent rent roll listing the rent paid for

1 each unit and the subsidy, if any, paid by a governmental agency
2 as of the date the notice of intent was made pursuant to Section
3 65863.10, and a statement of the vacancy rate at the development
4 for each of the two preceding calendar years.

5 (5) A statement that the owner has satisfied all notice
6 requirements pursuant to subdivision (b) of Section 65863.10,
7 unless the notice of opportunity to submit an offer to purchase is
8 delivered more than 12 months prior to the anticipated date of
9 termination, prepayment, or expiration of rental restrictions.

10 (i) If a qualified entity elects to purchase an assisted housing
11 development, it shall make a bona fide offer to purchase the
12 development. A qualified entity's bona fide offer to purchase
13 shall identify whether it is a tenant association, nonprofit
14 organization, public agency, or profit-motivated organizations or
15 individuals and shall certify, under penalty of perjury, that it is
16 qualified pursuant to subdivision (e). During the first 180 days
17 from the date of an owner's bona fide notice of the opportunity to
18 submit an offer to purchase, an owner shall accept a bona fide
19 offer to purchase only from a qualified entity. During this
20 180-day period, the owner shall not accept offers from any other
21 entity.

22 (j) When a bona fide offer to purchase has been made to an
23 owner, and the offer is accepted, a purchase agreement shall be
24 executed.

25 (k) Either the owner or the qualified entity may request that
26 the fair market value of the property, as a development, be
27 determined by an independent appraiser qualified to perform
28 multifamily housing appraisals, who shall be selected and paid
29 by the requesting party. All appraisers shall possess
30 qualifications equivalent to those required by the members of the
31 Appraisers Institute. This appraisal shall be nonbinding on either
32 party with respect to the sales price of the development offered in
33 the bona fide offer to purchase, or the acceptance or rejection of
34 the offer.

35 (l) During the 180-day period following the initial 180-day
36 period required pursuant to subdivision (i), an owner may accept
37 an offer from a person or an entity that does not qualify under
38 subdivision (e). This acceptance shall be made subject to the
39 owner providing each qualified entity that made a bona fide offer
40 to purchase the first opportunity to purchase the development at

1 the same terms and conditions as the pending offer to purchase,
2 unless these terms and conditions are modified by mutual
3 consent. The owner shall notify in writing those qualified entities
4 of the terms and conditions of the pending offer to purchase, sent
5 by registered or certified mail, return receipt requested. The
6 qualified entity shall have 30 days from the date the notice is
7 mailed to submit a bona fide offer to purchase and that offer shall
8 be accepted by the owner. The owner shall not be required to
9 comply with the provisions of this subdivision if the person or
10 the entity making the offer during this time period agrees to
11 maintain the development for persons and families of very low,
12 low, and moderate income in accordance with paragraph (2) of
13 subdivision (e). The owner shall notify the department regarding
14 how the buyer is meeting the requirements of paragraph (2) of
15 subdivision (e).

16 (m) This section shall not apply to any of the following: a
17 government taking by eminent domain or negotiated purchase; a
18 forced sale pursuant to a foreclosure; a transfer by gift, devise, or
19 operation of law; a sale to a person who would be included
20 within the table of descent and distribution if there were to be a
21 death intestate of an owner; or an owner who certifies, under
22 penalty of perjury, the existence of a financial emergency during
23 the period covered by the first right of refusal requiring
24 immediate access to the proceeds of the sale of the development.
25 The certification shall be made pursuant to subdivision (p).

26 (n) Prior to the close of escrow, an owner selling, leasing, or
27 otherwise disposing of a development to a purchaser who does
28 not qualify under subdivision (e) shall certify under penalty of
29 perjury that the owner has complied with all provisions of this
30 section and Section 65863.10. This certification shall be recorded
31 and shall contain a legal description of the property, shall be
32 indexed to the name of the owner as grantor, and may be relied
33 upon by good faith purchasers and encumbrances for value and
34 without notice of a failure to comply with the provisions of this
35 section.

36 Any person or entity acting solely in the capacity of an escrow
37 agent for the transfer of real property subject to this section shall
38 not be liable for any failure to comply with this section unless the
39 escrow agent either had actual knowledge of the requirements of

1 this section or acted contrary to written escrow instructions
2 concerning the provisions of this section.

3 (o) The department shall undertake the following
4 responsibilities and duties:

5 (1) Maintain a form containing a summary of rights and
6 obligations under this section and make that information
7 available to owners of assisted housing developments as well as
8 to tenant associations, local nonprofit organizations, regional or
9 national nonprofit organizations, public agencies, and other
10 entities with an interest in preserving the state's subsidized
11 housing.

12 (2) Compile, maintain, and update a list of entities in
13 subdivision (d) that have either contacted the department with an
14 expressed interest in purchasing a development in the subject
15 area or have been identified by the department as potentially
16 having an interest in participating in a right-of-first-refusal
17 program. The department shall publicize the existence of the list
18 statewide. Upon receipt of a notice of intent under Section
19 65863.10, the department shall make the list available to the
20 owner proposing the termination, prepayment, or removal of
21 government assistance or to the owner of an assisted housing
22 development in which there will be the expiration of rental
23 restrictions. If the department does not make the list available at
24 any time, the owner shall only be required to send a written copy
25 of the opportunity to submit an offer to purchase notice to the
26 qualified entities which directly contact the owner and to post a
27 copy of the notice in the common area pursuant to subdivision
28 (g).

29 (p) (1) The provisions of this section may be enforced either
30 in law or in equity by any qualified entity entitled to exercise the
31 opportunity to purchase and right of first refusal under this
32 section, that has been adversely affected by an owner's failure to
33 comply with this section.

34 (2) An owner may rely on the statements, claims, or
35 representations of any person or entity that the person or entity is
36 a qualified entity as specified in subdivision (d), unless the owner
37 has actual knowledge that the purchaser is not a qualified entity.

38 (3) If the person or entity is not an entity as specified in
39 subdivision (d), that fact, in the absence of actual knowledge as

1 described in paragraph (2), shall not give rise to any claim
2 against the owner for a violation of this section.

3 (q) It is the intent of the Legislature that the provisions of this
4 section are in addition to, but not preemptive of, applicable
5 federal laws governing the sale, or other disposition of a
6 development that would result in either (1) a discontinuance of
7 its use as an assisted housing development or (2) the termination
8 or expiration of any low-income use restrictions that apply to the
9 development.

10 (r) This section shall remain in effect only until January 1,
11 2011, and as of that date is repealed, unless a later enacted
12 statute, which is enacted on or before January 1, 2011, deletes or
13 extends that date.

14 SEC. 2. Section 65863.13 of the Government Code, as
15 amended by Chapter 110 of the Statutes of 2004, is amended to
16 read:

17 65863.13. (a) An owner shall not be required to provide a
18 notice as required by Section 65863.10 or Section 65863.11 if all
19 of the following conditions are contained in a regulatory
20 agreement that has been recorded against the property:

21 (1) No low-income tenant whose rent was restricted and or
22 subsidized and who resides in the development within 12 months
23 of the date that the rent restrictions are, or subsidy is, scheduled
24 to expire or terminate shall be involuntarily displaced on a
25 permanent basis as a result of the action by the owner unless the
26 tenant has breached the terms of the lease.

27 (2) The owner shall accept and fully utilize all renewals of
28 project-based assistance under Section 8 of the United States
29 Housing Act of 1937, if available, and if that assistance is at a
30 level to maintain the project's fiscal viability. The property shall
31 be deemed fiscally viable if the rents permitted under the terms
32 of the assistance are not less than the regulated rent levels
33 established pursuant to paragraph (7).

34 (3) The owner shall accept all enhanced Section 8 vouchers, if
35 the tenants receive them, and all other Section 8 vouchers for
36 future vacancies.

37 (4) The owner shall not terminate a tenancy of a low-income
38 household at the end of a lease term without demonstrating a
39 breach of the lease.

(5) The owner may, in selecting eligible applicants for admission, utilize criteria that permit consideration of the amount of income, as long as the owner adequately considers other factors relevant to an applicant's ability to pay rent.

(6) For housing developments in which only a portion of the units are assisted pursuant to paragraph (3) of subdivision (a) of Section 65863.10, a new regulatory agreement, consistent with this section, is recorded that restricts the rents of the assisted units to an equal or greater level of affordability than under the previously existing agreement so that they are affordable to households at the same or a lower percentage of area median income.

(7) For housing developments that have units with project-based Section 8 assistance upon the effective date of prepayment and subsequently become unassisted by any form of Section 8 assistance, rents shall not exceed 30 percent of 60 percent of the area median income. If any form of Section 8 assistance is or becomes available, the owner shall apply for and accept, if awarded, the Section 8 assistance. Rent and occupancy levels shall then be set in accordance with federal regulations for the Section 8 program.

(8) For unassisted units and units that do not have project-based Section 8 assistance upon the effective date of prepayment of a federally insured, federally held, or formerly federally insured or held mortgage and subsequently remain unassisted or become unassisted by any form of Section 8 assistance, rents shall not exceed the greater of (i) 30 percent of 50 percent of the area median income, or (ii) for projects insured under Section 241(f) of the National Housing Act, the regulated rents, expressed as a percentage of area median income. If any form of Section 8 assistance is or becomes available, the owner shall apply for and accept, if awarded, the Section 8 assistance. Rent and occupancy levels shall then be set in accordance with federal regulations governing the Section 8 program.

~~(9) If a previously unassisted unit becomes assisted, as evidenced by the recordation of a regulatory agreement, and is occupied by a non-low-income household at the time of the recordation of the new regulatory agreement, the owner shall qualify for the exemption under this section as long as the owner charges the over-income household a rent that does not exceed~~

~~30 percent of the household's gross monthly income until the termination of the tenancy, at which time the rent chargeable for the unit shall be restricted in accordance with applicable regulatory agreements~~ *If, upon the recordation of the new regulatory agreement, any unit is occupied by a household whose income exceeds the applicable limit but was within the applicable limit at initial occupancy of the unit, the rent for that household shall not exceed 30 percent of that household's adjusted income, provided that household's rent shall not be increased by more than 10 percent annually.*

(10) Notwithstanding paragraph (7), (8), or (9), upon the termination of the restrictions applicable to all assisted housing developments described in subparagraph (E), (F), or (G) of paragraph (3) of subdivision (a) of Section 65863.10, the allowable rents and incomes for the units previously restricted by any such program shall continue to apply to those units as if those restrictions had not terminated.

(b) As used in this section, "regulatory agreement" means an agreement with a governmental agency for the purposes of any governmental program, which agreement applies to the development that would be subject to the notice requirement in Section 65863.10 and which obligates the owner and any successors in interest to maintain the affordability of the assisted housing development for households of very low, low, or moderate income for the greater of the term of the existing federal, state, or local government assistance specified in subdivision (a) of Section 65863.10 or 30 years.

(c) *For purposes of the section, "unassisted units" means those units occupied by households whose income exceeds 60 percent of area median income, adjusted by household size, at the time a new regulatory agreement is recorded in accordance with this section.*

(d) Section 65863.11 shall not apply to any development for which the owner is exempt from the notice requirements of Section 65863.10 pursuant to this section.

~~(d)~~

(e) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

1 SEC. 3. Section 12206 of the Revenue and Taxation Code is
2 amended to read:

3 12206. (a) (1) There shall be allowed as a credit against the
4 “tax” (as defined by Section 12201) a state low-income housing
5 tax credit in an amount equal to the amount determined in
6 subdivision (c), computed in accordance with Section 42 of the
7 Internal Revenue Code, except as otherwise provided in this
8 section.

9 (2) “Taxpayer,” for purposes of this section, means the sole
10 owner in the case of a € “C” corporation, the partners in the case
11 of a partnership, and the shareholders in the case of an S “S”
12 corporation.

13 (3) “Housing sponsor,” for purposes of this section, means the
14 sole owner in the case of a € “C” corporation, the partnership in
15 the case of a partnership, and the S “S” corporation in the case of
16 an S corporation.

17 (b) (1) The amount of the credit allocated to any housing
18 sponsor shall be authorized by the California Tax Credit
19 Allocation Committee, or any successor thereof, based on a
20 project’s need for the credit for economic feasibility in
21 accordance with the requirements of this section.

22 (A) The low-income housing project shall be located in
23 California and shall meet either of the following requirements:

24 (i) The project’s housing sponsor shall have been allocated by
25 the California Tax Credit Allocation Committee a credit for
26 federal income tax purposes under Section 42 of the Internal
27 Revenue Code.

28 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
29 Internal Revenue Code.

30 (B) The California Tax Credit Allocation Committee shall not
31 require fees for the credit under this section in addition to those
32 fees required for applications for the tax credit pursuant to
33 Section 42 of the Internal Revenue Code. The committee may
34 require a fee if the application for the credit under this section is
35 submitted in a calendar year after the year the application is
36 submitted for the federal tax credit.

37 (2) (A) The California Tax Credit Allocation Committee shall
38 certify to the housing sponsor the amount of tax credit under this
39 section allocated to the housing sponsor for each credit period.

1 (B) In the case of a partnership or an S corporation, the
2 housing sponsor shall provide a copy of the California Tax Credit
3 Allocation Committee certification to the taxpayer.

4 (C) The taxpayer shall attach a copy of the certification to any
5 return upon which a tax credit is claimed under this section.

6 (D) In the case of a failure to attach a copy of the certification
7 for the year to the return in which a tax credit is claimed under
8 this section, no credit under this section shall be allowed for that
9 year until a copy of that certification is provided.

10 (E) All elections made by the taxpayer pursuant to Section 42
11 of the Internal Revenue Code shall apply to this section.

12 (F) No credit shall be allocated under this section to buildings
13 located in a difficult development area or a qualified census tract
14 as defined in Section 42 of the Internal Revenue Code for which
15 the eligible basis of a new building or the rehabilitation
16 expenditure of an existing building is 130 percent of that amount
17 pursuant to Section 42(d)(5)(C) of the Internal Revenue Code,
18 unless the committee reduces the amount of federal credit, with
19 the approval of the applicant, so that the combined amount of
20 federal and state credit shall not exceed the total credit allowable
21 pursuant to this section and Section 42(b) of the Internal Revenue
22 Code, computed without regard to Section 42(d)(5)(C) of the
23 Internal Revenue Code.

24 (c) Section 42(b) of the Internal Revenue Code shall be
25 modified as follows:

26 (1) In the case of any qualified low-income building that
27 receives an allocation after 1989 and is a new building not
28 federally subsidized, the term “applicable percentage” means the
29 following:

30 (A) For each of the first three years, the percentage prescribed
31 by the Secretary of the Treasury for new buildings that are not
32 federally subsidized for the taxable year, determined in
33 accordance with the requirements of Section 42(b)(2) of the
34 Internal Revenue Code, in lieu of the percentage prescribed in
35 Section 42(b)(1)(A) of the Internal Revenue Code.

36 (B) For the fourth year, the difference between 30 percent and
37 the sum of the applicable percentages for the first three years.

38 (2) In the case of any qualified low-income building that
39 receives an allocation after 1989 and that is a new building that is
40 federally subsidized or that is an existing building that is “at risk

of conversion,” the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(3) For purposes of this section, the term “at risk of conversion,” with respect to an existing building means a building that satisfies all of the following criteria:

(A) The building is presently owned by a housing sponsor other than a qualified nonprofit organization, *unless that organization is exempt from tax pursuant to Section 501(c)(3) of the Internal Revenue Code.*

(B) The building is a federally assisted building for which the low-income use restrictions will terminate or the mortgage on the building is eligible for incentives under Subtitle 13 of the Emergency Low Income Housing Assistance Act of 1987 ~~or under Section 502(e) of the Housing Act of 1949~~, anytime in the ~~two~~ five calendar years after the year of application to the California Tax Credit Allocation Committee, and the purchaser has received preliminary approval from the applicable federal agency for a maximum level of incentives through a plan of action. *“Federally assisted” includes any building that is “at risk of conversion” and financed by tax-exempt private activity bonds, as defined by Section 142(d) of the Internal Revenue Code, or by qualified 501(c)(3) bonds meeting the requirements of Section 147 of the Internal Revenue Code.*

(C) The person acquiring the building enters into a regulatory agreement that requires the building to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the building.

(D) The building satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term “qualified low-income housing project” as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

1 (1) The taxpayer shall be entitled to receive a cash distribution
2 from the operations of the project, after funding required
3 reserves, which, at the election of the taxpayer, is equal to:

4 (A) An amount not to exceed 8 percent of the lesser of:

5 (i) The owner equity which shall include the amount of the
6 capital contributions actually paid to the housing sponsor and
7 shall not include any amounts until they are paid on an investor
8 note.

9 (ii) Twenty percent of the adjusted basis of the building as of
10 the close of the first taxable year of the credit period.

11 (B) The amount of the cash-flow from those units in the
12 building that are not low-income units. For purposes of
13 computing cash-flow under this subparagraph, operating costs
14 shall be allocated to the low-income units using the “floor space
15 fraction,” as defined in Section 42 of the Internal Revenue Code.

16 (C) Any amount allowed to be distributed under subparagraph
17 (A) that is not available for distribution during the first five years
18 of the compliance period may accumulate and be distributed any
19 time during the first 15 years of the compliance period but not
20 thereafter.

21 (2) The limitation on return shall apply in the aggregate to the
22 partners if the housing sponsor is a partnership and in the
23 aggregate to the shareholders if the housing sponsor is an S
24 corporation.

25 (3) The housing sponsor shall apply any cash available for
26 distribution in excess of the amount eligible to be distributed
27 under paragraph (1) to reduce the rent on rent-restricted units or
28 to increase the number of rent-restricted units subject to the tests
29 of Section 42(g)(1) of the Internal Revenue Code.

30 (e) The provisions of Section 42(f) of the Internal Revenue
31 Code shall be modified as follows:

32 (1) The term “credit period” as defined in Section 42(f)(1) of
33 the Internal Revenue Code is modified by substituting “four
34 taxable years” for “10 taxable years.”

35 (2) The special rule for the first taxable year of the credit
36 period under Section 42(f)(2) of the Internal Revenue Code shall
37 not apply to the tax credit under this section.

38 (3) Section 42(f)(3) of the Internal Revenue Code is modified
39 to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals

1 the housing credit dollar amount previously allocated to any
2 project that does not become a qualified low-income housing
3 project within the period required by this section or to any project
4 with respect to which an allocation is canceled by mutual consent
5 of the California Tax Credit Allocation Committee and the
6 allocation recipient.

7 (h) The term “compliance period” as defined in Section
8 42(i)(1) of the Internal Revenue Code is modified to mean, with
9 respect to any building, the period of 30-consecutive taxable
10 years beginning with the first taxable year of the credit period
11 with respect thereto.

12 (i) (1) Section 42(j) of the Internal Revenue Code shall not be
13 applicable and the provisions in paragraph (2) shall be substituted
14 in its place.

15 (2) The requirements of this section shall be set forth in a
16 regulatory agreement between the California Tax Credit
17 Allocation Committee and the housing sponsor, which agreement
18 shall be subordinated, when required, to any lien or encumbrance
19 of any banks or other institutional lenders to the project. The
20 regulatory agreement entered into pursuant to subdivision (f) of
21 Section 50199.14 of the Health and Safety Code, shall apply,
22 providing the agreement includes all of the following provisions:

23 (A) A term not less than the compliance period.

24 (B) A requirement that the agreement be filed in the official
25 records of the county in which the qualified low-income housing
26 project is located.

27 (C) A provision stating which state and local agencies can
28 enforce the regulatory agreement in the event the housing
29 sponsor fails to satisfy any of the requirements of this section.

30 (D) A provision that the regulatory agreement shall be deemed
31 a contract enforceable by tenants as third-party beneficiaries
32 thereto and which allows individuals, whether prospective,
33 present, or former occupants of the building, who meet the
34 income limitation applicable to the building, the right to enforce
35 the regulatory agreement in any state court.

36 (E) A provision incorporating the requirements of Section 42
37 of the Internal Revenue Code as modified by this section.

38 (F) A requirement that the housing sponsor notify the
39 California Tax Credit Allocation Committee or its designee and
40 the local agency that can enforce the regulatory agreement if

1 there is a determination by the Internal Revenue Service that the
2 project is not in compliance with Section 42(g) of the Internal
3 Revenue Code.

4 (G) A requirement that the housing sponsor, as security for the
5 performance of the housing sponsor's obligations under the
6 regulatory agreement, assign the housing sponsor's interest in
7 rents that it receives from the project, provided that until there is
8 a default under the regulatory agreement, the housing sponsor is
9 entitled to collect and retain the rents.

10 (H) The remedies available in the event of a default under the
11 regulatory agreement that is not cured within a reasonable cure
12 period, include, but are not limited to, allowing any of the parties
13 designated to enforce the regulatory agreement to collect all rents
14 with respect to the project; taking possession of the project and
15 operating the project in accordance with the regulatory
16 agreement until the enforcer determines the housing sponsor is in
17 a position to operate the project in accordance with the regulatory
18 agreement; applying to any court for specific performance;
19 securing the appointment of a receiver to operate the project; or
20 any other relief as may be appropriate.

21 (j) (1) The committee shall allocate the housing credit on a
22 regular basis consisting of two or more periods in each calendar
23 year during which applications may be filed and considered. The
24 committee shall establish application filing deadlines, the
25 maximum percentage of federal and state low-income housing
26 tax credit ceiling which may be allocated by the committee in
27 that period, and the approximate date on which allocations shall
28 be made. If the enactment of federal or state law, the adoption of
29 rules or regulations, or other similar events prevent the use of
30 two allocation periods, the committee may reduce the number of
31 periods and adjust the filing deadlines, maximum percentage of
32 credit allocated, and the allocation dates.

33 (2) The committee shall adopt a qualified allocation plan, as
34 provided in Section 42(m)(1) of the Internal Revenue Code. In
35 adopting this plan, the committee shall comply with the
36 provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the
37 Internal Revenue Code.

38 (3) Notwithstanding Section 42(m) of the Internal Revenue
39 Code, the California Tax Credit Allocation Committee shall
40 allocate housing credits in accordance with the qualified

1 allocation plan and regulations, which shall include the following
2 provisions:

3 (A) All housing sponsors, as defined by paragraph (3) of
4 subdivision (a), shall demonstrate at the time the application is
5 filed with the committee that the project meets the following
6 threshold requirements:

7 (i) The housing sponsor shall demonstrate there is a need and
8 demand for low-income housing in the community or region for
9 which it is proposed.

10 (ii) The project's proposed financing, including tax credit
11 proceeds, shall be sufficient to complete the project and that the
12 proposed operating income shall be adequate to operate the
13 project for the extended use period.

14 (iii) The project shall have enforceable financing
15 commitments, either construction or permanent financing, for at
16 least 50 percent of the total estimated financing of the project.

17 (iv) The housing sponsor shall have and maintain control of
18 the site for the project.

19 (v) The housing sponsor shall demonstrate that the project
20 complies with all applicable local land use and zoning
21 ordinances.

22 (vi) The housing sponsor shall demonstrate that the project
23 development team has the experience and the financial capacity
24 to ensure project completion and operation for the extended use
25 period.

26 (vii) The housing sponsor shall demonstrate the amount of tax
27 credit that is necessary for the financial feasibility of the project
28 and its viability as a qualified low-income housing project
29 throughout the extended use period, taking into account operating
30 expenses, a supportable debt service, reserves, funds set aside for
31 rental subsidies, and required equity, and a development fee that
32 does not exceed a specified percentage of the eligible basis of the
33 project prior to inclusion of the development fee in the eligible
34 basis, as determined by the committee.

35 (B) The committee shall give a preference to those projects
36 satisfying all of the threshold requirements of subparagraph (A)
37 if both of the following apply:

38 (i) The project serves the lowest income tenants at rents
39 affordable to those tenants.

1 (ii) The project is obligated to serve qualified tenants for the
2 longest period.

3 (C) In addition to the provisions of subparagraphs (A) and (B),
4 the committee shall use the following criteria in allocating
5 housing credits:

6 (i) Projects serving large families in which a substantial
7 number, as defined by the committee, of all residential units is
8 comprised of low-income units with three and more bedrooms.

9 (ii) Projects providing single room occupancy units serving
10 very low income tenants.

11 (iii) Existing projects that are “at risk of conversion,” as
12 defined by paragraph ~~(4)~~ (3) of subdivision (c).

13 (iv) Projects for which a public agency provides direct or
14 indirect long-term financial support for at least 15 percent of the
15 total project development costs or projects for which the owner’s
16 equity constitutes at least 30 percent of the total project
17 development costs.

18 (v) Projects that provide tenant amenities not generally
19 available to residents of low-income housing projects.

20 (4) For purposes of allocating credits pursuant to this section,
21 the committee shall not give preference to any project by virtue
22 of the date of submission of its application except to break a tie
23 when two or more of the projects have an equal rating.

24 (k) Section 42(l) of the Internal Revenue Code shall be
25 modified as follows:

26 The term “secretary” shall be replaced by the term “California
27 Franchise Tax Board.”

28 (l) In the case where the state credit allowed under this section
29 exceeds the “tax,” the excess may be carried over to reduce the
30 “tax” in the following year, and succeeding years if necessary,
31 until the credit has been exhausted.

32 (m) The provisions of Section 11407(a) of Public Law
33 101-508, relating to the effective date of the extension of the
34 low-income housing credit, shall apply to calendar years after
35 1993.

36 (n) The provisions of Section 11407(c) of Public Law
37 101-508, relating to election to accelerate credit, shall not apply.

38 (o) This section shall remain in effect for as long as Section 42
39 of the Internal Revenue Code, relating to low-income housing
40 credits, remains in effect.

SEC. 4. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer" for purposes of this section means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an S "S" corporation.

(3) "Housing sponsor" for purposes of this section means the sole owner in the case of an individual, the partnership in the case of a partnership, and the S "S" corporation in the case of an S "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

1 (B) In the case of a partnership or an S “S” corporation, the
2 housing sponsor shall provide a copy of the California Tax Credit
3 Allocation Committee certification to the taxpayer.

4 (C) The taxpayer shall, upon request, provide a copy of the
5 certification to the Franchise Tax Board.

6 (D) All elections made by the taxpayer pursuant to Section 42
7 of the Internal Revenue Code shall apply to this section.

8 (E) For buildings located in designated difficult development
9 areas or qualified census tracts as defined in Section 42(d)(5)(C)
10 of the Internal Revenue Code, credits may be allocated under this
11 section in the amounts prescribed in subdivision (c), provided
12 that the amount of credit allocated under Section 42 of the
13 Internal Revenue Code is computed on 100 percent of the
14 qualified basis of the building.

15 (c) Section 42(b) of the Internal Revenue Code shall be
16 modified as follows:

17 (1) In the case of any qualified low-income building placed in
18 service by the housing sponsor during 1987, the term “applicable
19 percentage” means 9 percent for each of the first three years and
20 3 percent for the fourth year for new buildings (whether or not
21 the building is federally subsidized) and for existing buildings.

22 (2) In the case of any qualified low-income building that
23 receives an allocation after 1989 and is a new building not
24 federally subsidized, the term “applicable percentage” means the
25 following:

26 (A) For each of the first three years, the percentage prescribed
27 by the Secretary of the Treasury for new buildings that are not
28 federally subsidized for the taxable year, determined in
29 accordance with the requirements of Section 42(b)(2) of the
30 Internal Revenue Code, in lieu of the percentage prescribed in
31 Section 42(b)(1)(A) of the Internal Revenue Code.

32 (B) For the fourth year, the difference between 30 percent and
33 the sum of the applicable percentages for the first three years.

34 (3) In the case of any qualified low-income building that
35 receives an allocation after 1989 and that is a new building that is
36 federally subsidized or that is an existing building that is “at risk
37 of conversion,” the term “applicable percentage” means the
38 following:

1 (A) For each of the first three years, the percentage prescribed
2 by the Secretary of the Treasury for new buildings that are
3 federally subsidized for the taxable year.

4 (B) For the fourth year, the difference between 13 percent and
5 the sum of the applicable percentages for the first three years.

6 (4) For purposes of this section, the term “at risk of
7 conversion,” with respect to an existing building means a
8 building that satisfies all of the following criteria:

9 (A) The building is presently owned by a housing sponsor
10 other than a qualified nonprofit organization, *unless that*
11 *organization is exempt from taxation pursuant to Section*
12 *501(c)(3) of the Internal Revenue Code.*

13 (B) The building is a federally assisted building for which the
14 low-income use restrictions will terminate or the building is
15 eligible for incentives under Subtitle 13 of the Emergency Low
16 Income Housing Preservation Act of 1987 ~~or under Section~~
17 ~~502(e) of the Housing Act of 1949~~, anytime in the ~~two~~ *five*
18 calendar years after the year of application to the California Tax
19 Credit Allocation Committee, and the purchaser has received
20 preliminary approval from the applicable federal agency for a
21 maximum level of incentives through a plan of action.
22 *“Federally assisted” includes any building that is “at risk of*
23 *conversion” and financed by tax-exempt private activity bonds,*
24 *as defined by Section 142(d) of the Internal Revenue Code, or by*
25 *qualified 501(c)(3) bonds meeting the requirements of Section*
26 *147 of the Internal Revenue Code.*

27 (C) The person acquiring the building enters into a regulatory
28 agreement that requires the building to be operated in accordance
29 with the requirements of this section for a period equal to the
30 greater of 55 years or the life of the building.

31 (D) The building satisfies the requirements of Section 42(e) of
32 the Internal Revenue Code regarding rehabilitation expenditures,
33 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
34 apply.

35 (d) The term “qualified low-income housing project” as
36 defined in Section 42(c)(2) of the Internal Revenue Code is
37 modified by adding the following requirements:

38 (1) The taxpayer shall be entitled to receive a cash distribution
39 from the operations of the project, after funding required
40 reserves, that, at the election of the taxpayer, is equal to:

1 (A) An amount not to exceed 8 percent of the lesser of:

2 (i) The owner equity that shall include the amount of the
3 capital contributions actually paid to the housing sponsor and
4 shall not include any amounts until they are paid on an investor
5 note.

6 (ii) Twenty percent of the adjusted basis of the building as of
7 the close of the first taxable year of the credit period.

8 (B) The amount of the cash-flow from those units in the
9 building that are not low-income units. For purposes of
10 computing cash-flow under this subparagraph, operating costs
11 shall be allocated to the low-income units using the “floor space
12 fraction,” as defined in Section 42 of the Internal Revenue Code.

13 (C) Any amount allowed to be distributed under subparagraph
14 (A) that is not available for distribution during the first five years
15 of the compliance period may be accumulated and distributed
16 any time during the first 15 years of the compliance period but
17 not thereafter.

18 (2) The limitation on return shall apply in the aggregate to the
19 partners if the housing sponsor is a partnership and in the
20 aggregate to the shareholders if the housing sponsor is an S “S”
21 corporation.

22 (3) The housing sponsor shall apply any cash available for
23 distribution in excess of the amount eligible to be distributed
24 under paragraph (1) to reduce the rent on rent-restricted units or
25 to increase the number of rent-restricted units subject to the tests
26 of Section 42(g)(1) of the Internal Revenue Code.

27 (e) The provisions of Section 42(f) of the Internal Revenue
28 Code shall be modified as follows:

29 (1) The term “credit period” as defined in Section 42(f)(1) of
30 the Internal Revenue Code is modified by substituting “four
31 taxable years” for “10 taxable years.”

32 (2) The special rule for the first taxable year of the credit
33 period under Section 42(f)(2) of the Internal Revenue Code shall
34 not apply to the tax credit under this section.

35 (3) Section 42(f)(3) of the Internal Revenue Code is modified
36 to read:

37 If, as of the close of any taxable year in the compliance period,
38 after the first year of the credit period, the qualified basis of any
39 building exceeds the qualified basis of that building as of the
40 close of the first year of the credit period, the housing sponsor, to

1 the extent of its tax credit allocation, shall be eligible for a credit
2 on the excess in an amount equal to the applicable percentage
3 determined pursuant to subdivision (c) for the four-year period
4 beginning with the taxable year in which the increase in qualified
5 basis occurs.

6 (f) The provisions of Section 42(h) of the Internal Revenue
7 Code shall be modified as follows:

8 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
9 applicable and instead the following provisions shall be
10 applicable:

11 The total amount for the four-year period of the housing credit
12 dollars allocated in a calendar year to any building shall reduce
13 the aggregate housing credit dollar amount of the California Tax
14 Credit Allocation Committee for the calendar year in which the
15 allocation is made.

16 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
17 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
18 not be applicable to this section.

19 (g) The aggregate housing credit dollar amount which may be
20 allocated annually by the California Tax Credit Allocation
21 Committee pursuant to this section, Section 12206, and Section
22 23610.5 shall be an amount equal to the sum of all the following:

23 (1) Seventy million dollars (\$70,000,000) for the 2001
24 calendar year, and, for the 2002 calendar year and each calendar
25 year thereafter, seventy million dollars (\$70,000,000) increased
26 by the percentage, if any, by which the Consumer Price Index for
27 the preceding calendar year exceeds the Consumer Price Index
28 for the 2001 calendar year. For the purposes of this paragraph,
29 the term “Consumer Price Index” means the last Consumer Price
30 Index for all urban consumers published by the federal
31 Department of Labor.

32 (2) The unused housing credit ceiling, if any, for the preceding
33 calendar years.

34 (3) The amount of housing credit ceiling returned in the
35 calendar year. For purposes of this paragraph, the amount of
36 housing credit dollar amount returned in the calendar year equals
37 the housing credit dollar amount previously allocated to any
38 project that does not become a qualified low-income housing
39 project within the period required by this section or to any project
40 with respect to which an allocation is canceled by mutual consent

1 of the California Tax Credit Allocation Committee and the
2 allocation recipient.

3 (h) The term “compliance period” as defined in Section
4 42(i)(1) of the Internal Revenue Code is modified to mean, with
5 respect to any building, the period of 30 consecutive taxable
6 years beginning with the first taxable year of the credit period
7 with respect thereto.

8 (i) Section 42(j) of the Internal Revenue Code shall not be
9 applicable and the following requirements of this section shall be
10 set forth in a regulatory agreement between the California Tax
11 Credit Allocation Committee and the housing sponsor, which
12 agreement shall be subordinated, when required, to any lien or
13 encumbrance of any banks or other institutional lenders to the
14 project. The regulatory agreement entered into pursuant to
15 subdivision (f) of Section 50199.14 of the Health and Safety
16 Code shall apply, providing the agreement includes all of the
17 following provisions:

18 (1) A term not less than the compliance period.

19 (2) A requirement that the agreement be filed in the official
20 records of the county in which the qualified low-income housing
21 project is located.

22 (3) A provision stating which state and local agencies can
23 enforce the regulatory agreement in the event the housing
24 sponsor fails to satisfy any of the requirements of this section.

25 (4) A provision that the regulatory agreement shall be deemed
26 a contract enforceable by tenants as third-party beneficiaries
27 thereto and which allows individuals, whether prospective,
28 present, or former occupants of the building, who meet the
29 income limitation applicable to the building, the right to enforce
30 the regulatory agreement in any state court.

31 (5) A provision incorporating the requirements of Section 42
32 of the Internal Revenue Code as modified by this section.

33 (6) A requirement that the housing sponsor notify the
34 California Tax Credit Allocation Committee or its designee if
35 there is a determination by the Internal Revenue Service that the
36 project is not in compliance with Section 42(g) of the Internal
37 Revenue Code.

38 (7) A requirement that the housing sponsor, as security for the
39 performance of the housing sponsor’s obligations under the
40 regulatory agreement, assign the housing sponsor’s interest in

1 rents that it receives from the project, provided that until there is
2 a default under the regulatory agreement, the housing sponsor is
3 entitled to collect and retain the rents.

4 (8) The remedies available in the event of a default under the
5 regulatory agreement that is not cured within a reasonable cure
6 period, include, but are not limited to, allowing any of the parties
7 designated to enforce the regulatory agreement to collect all rents
8 with respect to the project; taking possession of the project and
9 operating the project in accordance with the regulatory
10 agreement until the enforcer determines the housing sponsor is in
11 a position to operate the project in accordance with the regulatory
12 agreement; applying to any court for specific performance;
13 securing the appointment of a receiver to operate the project; or
14 any other relief as may be appropriate.

15 (j) (1) The committee shall allocate the housing credit on a
16 regular basis consisting of two or more periods in each calendar
17 year during which applications may be filed and considered. The
18 committee shall establish application filing deadlines, the
19 maximum percentage of federal and state low-income housing
20 tax credit ceiling that may be allocated by the committee in that
21 period, and the approximate date on which allocations shall be
22 made. If the enactment of federal or state law, the adoption of
23 rules or regulations or other similar events prevent the use of two
24 allocation periods, the committee may reduce the number of
25 periods and adjust the filing deadlines, maximum percentage of
26 credit allocated, and the allocation dates.

27 (2) The committee shall adopt a qualified allocation plan, as
28 provided in Section 42(m)(1) of the Internal Revenue Code. In
29 adopting this plan, the committee shall comply with the
30 provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the
31 Internal Revenue Code.

32 (3) Notwithstanding Section 42(m) of the Internal Revenue
33 Code, the California Tax Credit Allocation Committee shall
34 allocate housing credits in accordance with the qualified
35 allocation plan and regulations, which shall include the following
36 provisions:

37 (A) All housing sponsors, as defined by paragraph (3) of
38 subdivision (a), shall demonstrate at the time the application is
39 filed with the committee that the project meets the following
40 threshold requirements:

1 (i) The housing sponsor shall demonstrate there is a need and
2 demand for low-income housing in the community or region for
3 which it is proposed.

4 (ii) The project's proposed financing, including tax credit
5 proceeds, shall be sufficient to complete the project and that the
6 proposed operating income shall be adequate to operate the
7 project for the extended use period.

8 (iii) The project shall have enforceable financing
9 commitments, either construction or permanent financing, for at
10 least 50 percent of the total estimated financing of the project.

11 (iv) The housing sponsor shall have and maintain control of
12 the site for the project.

13 (v) The housing sponsor shall demonstrate that the project
14 complies with all applicable local land use and zoning
15 ordinances.

16 (vi) The housing sponsor shall demonstrate that the project
17 development team has the experience and the financial capacity
18 to ensure project completion and operation for the extended use
19 period.

20 (vii) The housing sponsor shall demonstrate the amount of tax
21 credit that is necessary for the financial feasibility of the project
22 and its viability as a qualified low-income housing project
23 throughout the extended use period, taking into account operating
24 expenses, a supportable debt service, reserves, funds set aside for
25 rental subsidies, and required equity, and a development fee that
26 does not exceed a specified percentage of the eligible basis of the
27 project prior to inclusion of the development fee in the eligible
28 basis, as determined by the committee.

29 (B) The committee shall give a preference to those projects
30 satisfying all of the threshold requirements of subparagraph (A)
31 if both of the following apply:

32 (i) The project serves the lowest income tenants at rents
33 affordable to those tenants.

34 (ii) The project is obligated to serve qualified tenants for the
35 longest period.

36 (C) In addition to the provisions of subparagraphs (A) and (B),
37 the committee shall use the following criteria in allocating
38 housing credits:

1 (i) Projects serving large families in which a substantial
2 number, as defined by the committee of all residential units is
3 comprised of low-income units with three and more bedrooms.

4 (ii) Projects providing single room occupancy units serving
5 very low income tenants.

6 (iii) Existing projects that are “at risk of conversion,” as
7 defined by paragraph (4) of subdivision (c).

8 (iv) Projects for which a public agency provides direct or
9 indirect long-term financial support for at least 15 percent of the
10 total project development costs or projects for which the owner’s
11 equity constitutes at least 30 percent of the total project
12 development costs.

13 (v) Projects that provide tenant amenities not generally
14 available to residents of low-income housing projects.

15 (4) For purposes of allocating credits pursuant to this section,
16 the committee shall not give preference to any project by virtue
17 of the date of submission of its application.

18 (k) Section 42(l) of the Internal Revenue Code shall be
19 modified as follows:

20 The term “secretary” shall be replaced by the term “California
21 Franchise Tax Board.”

22 (l) In the case where the credit allowed under this section
23 exceeds the net tax, the excess credit may be carried over to
24 reduce the net tax in the following year, and succeeding taxable
25 years, if necessary, until the credit has been exhausted.

26 (m) A project that received an allocation of a 1989 federal
27 housing credit dollar amount shall be eligible to receive an
28 allocation of a 1990 state housing credit dollar amount, subject to
29 all of the following conditions:

30 (1) The project was not placed in service prior to 1990.

31 (2) To the extent the amendments made to this section by the
32 Statutes of 1990 conflict with any provisions existing in this
33 section prior to those amendments, the prior provisions of law
34 shall prevail.

35 (3) Notwithstanding paragraph (2), a project applying for an
36 allocation under this subdivision shall be subject to the
37 requirements of paragraph (3) of subdivision (j).

38 (n) The credit period with respect to an allocation of credit in
39 1989 by the California Tax Credit Allocation Committee of

1 which any amount is attributable to unallocated credit from 1987
2 or 1988 shall not begin until after December 31, 1989.

3 (o) The provisions of Section 11407(a) of Public Law
4 101-508, relating to the effective date of the extension of the
5 low-income housing credit, shall apply to calendar years after
6 1989.

7 (p) The provisions of Section 11407(c) of Public Law
8 101-508, relating to election to accelerate credit, shall not apply.

9 (q) Any unused credit may continue to be carried forward, as
10 provided in subdivision (l), until the credit has been exhausted.

11 This section shall remain in effect on and after December 1,
12 1990, for as long as Section 42 of the Internal Revenue Code,
13 relating to low-income housing credits, remains in effect.

14 (r) The amendments to this section by the act adding this
15 subdivision shall apply only to taxable years beginning on or
16 after January 1, 1994.

17 SEC. 5. Section 23610.5 of the Revenue and Taxation Code is
18 amended to read:

19 23610.5. (a) (1) There shall be allowed as a credit against the
20 "tax" (as defined by Section 23036) a state low-income housing
21 tax credit in an amount equal to the amount determined in
22 subdivision (c), computed in accordance with Section 42 of the
23 Internal Revenue Code of 1986, except as otherwise provided in
24 this section.

25 (2) "Taxpayer," for purposes of this section, means the sole
26 owner in the case of a € "C" corporation, the partners in the case
27 of a partnership, and the shareholders in the case of an § "S"
28 corporation.

29 (3) "Housing sponsor," for purposes of this section, means the
30 sole owner in the case of a € "C" corporation, the partnership in
31 the case of a partnership, and the § "S" corporation in the case of
32 an § "S" corporation.

33 (b) (1) The amount of the credit allocated to any housing
34 sponsor shall be authorized by the California Tax Credit
35 Allocation Committee, or any successor thereof, based on a
36 project's need for the credit for economic feasibility in
37 accordance with the requirements of this section.

38 (A) The low-income housing project shall be located in
39 California and shall meet either of the following requirements:

1 (i) The project's housing sponsor has been allocated by the
2 California Tax Credit Allocation Committee a credit for federal
3 income tax purposes under Section 42 of the Internal Revenue
4 Code.

5 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
6 Internal Revenue Code.

7 (B) The California Tax Credit Allocation Committee shall not
8 require fees for the credit under this section in addition to those
9 fees required for applications for the tax credit pursuant to
10 Section 42 of the Internal Revenue Code. The committee may
11 require a fee if the application for the credit under this section is
12 submitted in a calendar year after the year the application is
13 submitted for the federal tax credit.

14 (2) (A) The California Tax Credit Allocation Committee shall
15 certify to the housing sponsor the amount of tax credit under this
16 section allocated to the housing sponsor for each credit period.

17 (B) In the case of a partnership or an S "S" corporation, the
18 housing sponsor shall provide a copy of the California Tax Credit
19 Allocation Committee certification to the taxpayer.

20 (C) The taxpayer shall, upon request, provide a copy of the
21 certification to the Franchise Tax Board.

22 (D) All elections made by the taxpayer pursuant to Section 42
23 of the Internal Revenue Code shall apply to this section.

24 (E) For buildings located in designated difficult development
25 areas or qualified census tracts as defined in Section 42(d)(5)(C)
26 of the Internal Revenue Code, credits may be allocated under this
27 section in the amounts prescribed in subdivision (c), provided
28 that the amount of credit allocated under Section 42 of the
29 Internal Revenue Code is computed on 100 percent of the
30 qualified basis of the building.

31 (c) Section 42(b) of the Internal Revenue Code shall be
32 modified as follows:

33 (1) In the case of any qualified low-income building placed in
34 service by the housing sponsor during 1987, the term "applicable
35 percentage" means 9 percent for each of the first three years and
36 3 percent for the fourth year for new buildings (whether or not
37 the building is federally subsidized) and for existing buildings.

38 (2) In the case of any qualified low-income building that
39 receives an allocation after 1989 and is a new building not

federally subsidized, the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is “at risk of conversion,” the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term “at risk of conversion,” with respect to an existing building means a building that satisfies all of the following criteria:

(A) The building is presently owned by a housing sponsor other than a qualified nonprofit organization, *unless that organization is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.*

(B) The building is a federally assisted building for which the low-income use restrictions will terminate or the building is eligible for prepayment under Subtitle 13 of the Emergency Low Income Housing Assistance Act of 1987 ~~or under Section 502(e) of the Housing Act of 1949~~, anytime in the ~~two~~ *five* calendar years after the year of application to the California Tax Credit Allocation Committee, and the purchaser has received preliminary approval from the applicable federal agency for a maximum level of incentives through a plan of action. *“Federally assisted” includes any building that is “at risk of conversion” and financed by tax-exempt private activity bonds, as defined by Section 142(d) of the Internal Revenue Code, or by*

1 *qualified 501(c)(3) bonds meeting the requirements of Section*
2 *147 of the Internal Revenue Code.*

3 (C) The person acquiring the building enters into a regulatory
4 agreement that requires the building to be operated in accordance
5 with the requirements of this section for a period equal to the
6 greater of 55 years or the life of the building.

7 (D) The building satisfies the requirements of Section 42(e) of
8 the Internal Revenue Code regarding rehabilitation expenditures,
9 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
10 apply.

11 (d) The term “qualified low-income housing project” as
12 defined in Section 42(c)(2) of the Internal Revenue Code is
13 modified by adding the following requirements:

14 (1) The taxpayer shall be entitled to receive a cash distribution
15 from the operations of the project, after funding required
16 reserves, which, at the election of the taxpayer, shall be equal to:

17 (A) An amount not to exceed 8 percent of the lesser of:

18 (i) The owner equity, which shall include the amount of the
19 capital contributions actually paid to the housing sponsor and
20 shall not include any amounts until they are paid on an investor
21 note.

22 (ii) Twenty percent of the adjusted basis of the building as of
23 the close of the first taxable year of the credit period.

24 (B) The amount of the cash-flow from those units in the
25 building that are not low-income units. For purposes of
26 computing cash-flow under this subparagraph, operating costs
27 shall be allocated to the low-income units using the “floor space
28 fraction,” as defined in Section 42 of the Internal Revenue Code.

29 (C) Any amount allowed to be distributed under subparagraph
30 (A) that is not available for distribution during the first five years
31 of the compliance period may accumulate and be distributed at
32 any time during the first 15 years of the compliance period but
33 not thereafter.

34 (2) The limitation on return shall apply in the aggregate to the
35 partners if the housing sponsor is a partnership and in the
36 aggregate to the shareholders if the housing sponsor is an S “S”
37 corporation.

38 (3) The housing sponsor shall apply any cash available for
39 distribution in excess of the amount eligible to be distributed
40 under paragraph (1) to reduce the rent on rent-restricted units or

1 to increase the number of rent-restricted units subject to the tests
2 of Section 42(g)(1) of the Internal Revenue Code.

3 (e) The provisions of Section 42(f) of the Internal Revenue
4 Code shall be modified as follows:

5 (1) The term “credit period” as defined in Section 42(f)(1) of
6 the Internal Revenue Code is modified by substituting “four
7 taxable years” for “10 taxable years.”

8 (2) The special rule for the first taxable year of the credit
9 period under Section 42(f)(2) of the Internal Revenue Code shall
10 not apply to the tax credit under this section.

11 (3) Section 42(f)(3) of the Internal Revenue Code is modified
12 to read:

13 If, as of the close of any taxable year in the compliance period,
14 after the first year of the credit period, the qualified basis of any
15 building exceeds the qualified basis of that building as of the
16 close of the first year of the credit period, the housing sponsor, to
17 the extent of its tax credit allocation, shall be eligible for a credit
18 on the excess in an amount equal to the applicable percentage
19 determined pursuant to subdivision (c) for the four-year period
20 beginning with the later of the taxable years in which the increase
21 in qualified basis occurs.

22 (f) The provisions of Section 42(h) of the Internal Revenue
23 Code shall be modified as follows:

24 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
25 applicable and instead the following provisions shall be
26 applicable:

27 The total amount for the four-year credit period of the housing
28 credit dollars allocated in a calendar year to any building shall
29 reduce the aggregate housing credit dollar amount of the
30 California Tax Credit Allocation Committee for the calendar year
31 in which the allocation is made.

32 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
33 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
34 not be applicable.

35 (g) The aggregate housing credit dollar amount that may be
36 allocated annually by the California Tax Credit Allocation
37 Committee pursuant to this section, Section 12206, and Section
38 17058 shall be an amount equal to the sum of all the following:

39 (1) Seventy million dollars (\$70,000,000) for the 2001
40 calendar year, and, for the 2002 calendar year and each calendar

1 year thereafter, seventy million dollars (\$70,000,000) increased
2 by the percentage, if any, by which the Consumer Price Index for
3 the preceding calendar year exceeds the Consumer Price Index
4 for the 2001 calendar year. For the purposes of this paragraph,
5 the term “Consumer Price Index” means the last Consumer Price
6 Index for all urban consumers published by the federal
7 Department of Labor.

8 (2) The unused housing credit ceiling, if any, for the preceding
9 calendar years.

10 (3) The amount of housing credit ceiling returned in the
11 calendar year. For purposes of this paragraph, the amount of
12 housing credit dollar amount returned in the calendar year equals
13 the housing credit dollar amount previously allocated to any
14 project that does not become a qualified low-income housing
15 project within the period required by this section or to any project
16 with respect to which an allocation is canceled by mutual consent
17 of the California Tax Credit Allocation Committee and the
18 allocation recipient.

19 (h) The term “compliance period” as defined in Section
20 42(i)(1) of the Internal Revenue Code is modified to mean, with
21 respect to any building, the period of 30 consecutive taxable
22 years beginning with the first taxable year of the credit period
23 with respect thereto.

24 (i) Section 42(j) of the Internal Revenue Code shall not be
25 applicable and the following shall be substituted in its place:

26 The requirements of this section shall be set forth in a
27 regulatory agreement between the California Tax Credit
28 Allocation Committee and the housing sponsor, and this
29 agreement shall be subordinated, when required, to any lien or
30 encumbrance of any banks or other institutional lenders to the
31 project. The regulatory agreement entered into pursuant to
32 subdivision (f) of Section 50199.14 of the Health and Safety
33 Code shall apply, provided that the agreement includes all of the
34 following provisions:

35 (1) A term not less than the compliance period.

36 (2) A requirement that the agreement be filed in the official
37 records of the county in which the qualified low-income housing
38 project is located.

1 (3) A provision stating which state and local agencies can
2 enforce the regulatory agreement in the event the housing
3 sponsor fails to satisfy any of the requirements of this section.

4 (4) A provision that the regulatory agreement shall be deemed
5 a contract enforceable by tenants as third-party beneficiaries
6 thereto, and that allows individuals, whether prospective, present,
7 or former occupants of the building, who meet the income
8 limitation applicable to the building the right to enforce the
9 regulatory agreement in any state court.

10 (5) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (6) A requirement that the housing sponsor notify the
13 California Tax Credit Allocation Committee or its designee if
14 there is a determination by the Internal Revenue Service that the
15 project is not in compliance with Section 42(g) of the Internal
16 Revenue Code.

17 (7) A requirement that the housing sponsor, as security for the
18 performance of the housing sponsor's obligations under the
19 regulatory agreement, assign the housing sponsor's interest in
20 rents that it receives from the project, provided that until there is
21 a default under the regulatory agreement, the housing sponsor is
22 entitled to collect and retain the rents.

23 (8) A provision that the remedies available in the event of a
24 default under the regulatory agreement that is not cured within a
25 reasonable cure period include, but are not limited to, allowing
26 any of the parties designated to enforce the regulatory agreement
27 to collect all rents with respect to the project; taking possession
28 of the project and operating the project in accordance with the
29 regulatory agreement until the enforcer determines the housing
30 sponsor is in a position to operate the project in accordance with
31 the regulatory agreement; applying to any court for specific
32 performance; securing the appointment of a receiver to operate
33 the project; or any other relief as may be appropriate.

34 (j) (1) The committee shall allocate the housing credit on a
35 regular basis consisting of two or more periods in each calendar
36 year during which applications may be filed and considered. The
37 committee shall establish application filing deadlines, the
38 maximum percentage of federal and state low-income housing
39 tax credit ceiling that may be allocated by the committee in that
40 period, and the approximate date on which allocations shall be

1 made. If the enactment of federal or state law, the adoption of
2 rules or regulations, or other similar events prevent the use of
3 two allocation periods, the committee may reduce the number of
4 periods and adjust the filing deadlines, maximum percentage of
5 credit allocated, and allocation dates.

6 (2) The committee shall adopt a qualified allocation plan, as
7 provided in Section 42(m)(1) of the Internal Revenue Code. In
8 adopting this plan, the committee shall comply with the
9 provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the
10 Internal Revenue Code.

11 (3) Notwithstanding Section 42(m) of the Internal Revenue
12 Code, the California Tax Credit Allocation Committee shall
13 allocate housing credits in accordance with the qualified
14 allocation plan and regulations, which shall include the following
15 provisions:

16 (A) All housing sponsors, as defined by paragraph (3) of
17 subdivision (a), shall demonstrate at the time the application is
18 filed with the committee that the project meets the following
19 threshold requirements:

20 (i) The housing sponsor shall demonstrate that there is a need
21 for low-income housing in the community or region for which it
22 is proposed.

23 (ii) The project's proposed financing, including tax credit
24 proceeds, shall be sufficient to complete the project and shall be
25 adequate to operate the project for the extended use period.

26 (iii) The project shall have enforceable financing
27 commitments, either construction or permanent financing, for at
28 least 50 percent of the total estimated financing of the project.

29 (iv) The housing sponsor shall have and maintain control of
30 the site for the project.

31 (v) The housing sponsor shall demonstrate that the project
32 complies with all applicable local land use and zoning
33 ordinances.

34 (vi) The housing sponsor shall demonstrate that the project
35 development team has the experience and the financial capacity
36 to ensure project completion and operation for the extended use
37 period.

38 (vii) The housing sponsor shall demonstrate the amount of tax
39 credit that is necessary for the financial feasibility of the project
40 and its viability as a qualified low-income housing project

1 throughout the extended use period, taking into account operating
2 expenses, a supportable debt service, reserves, funds set aside for
3 rental subsidies, and required equity, and a development fee that
4 does not exceed a specified percentage of the eligible basis of the
5 project prior to inclusion of the development fee in the eligible
6 basis, as determined by the committee.

7 (B) The committee shall give a preference to those projects
8 satisfying all of the threshold requirements of subparagraph (A)
9 if both of the following apply:

10 (i) The project serves the lowest income tenants at rents
11 affordable to those tenants.

12 (ii) The project is obligated to serve qualified tenants for the
13 longest period.

14 (C) In addition to the provisions of subparagraphs (A) and (B),
15 the committee shall use the following criteria in allocating
16 housing credits:

17 (i) Projects serving large families in which a substantial
18 number, as defined by the committee, of all residential units are
19 low-income units with three and more bedrooms.

20 (ii) Projects providing single-room occupancy units serving
21 very low income tenants.

22 (iii) Existing projects that are “at risk of conversion,” as
23 defined by paragraph (4) of subdivision (c).

24 (iv) Projects for which a public agency provides direct or
25 indirect long-term financial support for at least 15 percent of the
26 total project development costs or projects for which the owner’s
27 equity constitutes at least 30 percent of the total project
28 development costs.

29 (v) Projects that provide tenant amenities not generally
30 available to residents of low-income housing projects.

31 (4) For purposes of allocating credits pursuant to this section,
32 the committee shall not give preference to any project by virtue
33 of the date of submission of its application except to break a tie
34 when two or more of the projects have an equal rating.

35 (5) Not less than 20 percent of the low-income housing tax
36 credits available annually under this section, Section 12206, and
37 Section 17058 shall be set aside for allocation to rural areas as
38 defined in Section 50199.21 of the Health and Safety Code. Any
39 amount of credit set aside for rural areas remaining on or after
40 October 31 of any calendar year shall be available for allocation

1 to any eligible project. No amount of credit set aside for rural
2 areas shall be considered available for any eligible project so
3 long as there are eligible rural applications pending on October
4 31.

5 (k) Section 42(l) of the Internal Revenue Code shall be
6 modified as follows:

7 The term “secretary” shall be replaced by the term “California
8 Franchise Tax Board.”

9 (l) In the case where the state credit allowed under this section
10 exceeds the “tax,” the excess may be carried over to reduce the
11 “tax” in the following year, and succeeding years if necessary,
12 until the credit has been exhausted.

13 (m) A project that received an allocation of a 1989 federal
14 housing credit dollar amount shall be eligible to receive an
15 allocation of a 1990 state housing credit dollar amount, subject to
16 all of the following conditions:

17 (1) The project was not placed in service prior to 1990.

18 (2) To the extent the amendments made to this section by the
19 Statutes of 1990 conflict with any provisions existing in this
20 section prior to those amendments, the prior provisions of law
21 shall prevail.

22 (3) Notwithstanding paragraph (2), a project applying for an
23 allocation under this subdivision shall be subject to the
24 requirements of paragraph (3) of subdivision (j).

25 (n) The credit period with respect to an allocation of credit in
26 1989 by the California Tax Credit Allocation Committee of
27 which any amount is attributable to unallocated credit from 1987
28 or 1988 shall not begin until after December 31, 1989.

29 (o) The provisions of Section 11407(a) of Public Law
30 101-508, relating to the effective date of the extension of the
31 low-income housing credit, shall apply to calendar years after
32 1989.

33 (p) The provisions of Section 11407(c) of Public Law
34 101-508, relating to election to accelerate credit, shall not apply.

35 (q) (1) A corporation may elect to assign any portion of any
36 credit allowed under this section to one or more affiliated
37 corporations for each taxable year in which the credit is allowed.
38 For purposes of this subdivision, “affiliated corporation” has the
39 meaning provided in subdivision (b) of Section 25110, as that
40 section was amended by Chapter 881 of the Statutes of 1993, as

1 of the last day of the taxable year in which the credit is allowed,
2 except that “100 percent” is substituted for “more than 50
3 percent” wherever it appears in the section, as that section was
4 amended by Chapter 881 of the Statutes of 1993, and “voting
5 common stock” is substituted for “voting stock” wherever it
6 appears in the section, as that section was amended by Chapter
7 881 of the Statutes of 1993.

8 (2) The election provided in paragraph (1):

9 (A) May be based on any method selected by the corporation
10 that originally receives the credit.

11 (B) Shall be irrevocable for the taxable year the credit is
12 allowed, once made.

13 (C) May be changed for any subsequent taxable year if the
14 election to make the assignment is expressly shown on each of
15 the returns of the affiliated corporations that assign and receive
16 the credits.

17 (r) Any unused credit may continue to be carried forward, as
18 provided in subdivision (k), until the credit has been exhausted.

19 This section shall remain in effect on or after December 1,
20 1990, for as long as Section 42 of the Internal Revenue Code,
21 relating to low-income housing credits, remains in effect.

22 (s) The amendments to this section made by the act adding this
23 subdivision shall apply only to taxable years beginning on or
24 after January 1, 1994, except that paragraph (1) of subdivision
25 (q), as amended, shall apply to taxable years beginning on or
26 after January 1, 1993.